

REMARKS

Claims 1, 19, 29 and 30 are amended. Claims 1-19 and 21-36 remain pending. Applicant reserves the right to pursue the original and other claims in this and other applications.

Claims 1-4, 7-9, 11, 14, 15, 18, 19, 21, 23 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 3,774,615 to Lim, et al. (Lim) in view of U.S. Patent 4,873,975 to Walsh et al. (Walsh). The rejection is respectfully traversed.

Claim 1, as amended, recites “a removable electrocoagulative anastomosis device for the production of an electrocoagulated anastomosis... [wherein] each of ... inner and outer sleeves is separable or operable such that they can be removed from the first and second hollow organs without severing them after formation of the electrocoagulated anastomosis is complete... [and] each of the inner and outer sleeves comprises electrically conductive materials.”

Claim 19 recites similar limitations, namely that “said inner sleeve comprises an inner sleeve electrically conductive portion ... said outer sleeve comprises an outer sleeve electrically conductive portion ... [and] each of said inner and outer sleeves is openable or separable in a fashion that permits removal of said sleeves from said first and second hollow organs without severing said first or second hollow organ after completion of an electrocoagulated anastomosis.”

Notwithstanding that Lim plainly fails to teach or suggest a device capable of “production of an electrocoagulated anastomosis,” as recited by claims 1 and 19, Lim also fails to teach or suggest that “each of ... inner and outer sleeves is separable or operable such that they can be removed from the first and second hollow organs without severing them.” The Office Action argues that FIG. 3 of Lim illustrates that connecting ring 1 and fastening means 4 can be removed from the first and second hollow organs “without severing the anastomosis.” (Office Action at 3). But disconnecting the connecting ring 1 and fastening means 4 is not “remov[ing] [them] from the first and second hollow organs without severing [the organs],” as is required by claims 1 and 19. Lim also explicitly teaches away from “each of the inner and outer sleeves compris[ing] electrically

conductive materials” as well. Lim specifically instructs against using metal for ring 1. (Lim, col. 2, ln. 47—col. 3, ln. 25). Modification of Lim to employ metal, as the Office suggests, is therefore not possible. (Office Action, pgs. 3, 6).

Walsh, which is cited as teaching an anastomotic connector made of electrically conductive material, fails to cure Lim’s deficiencies. Notwithstanding that Walsh’s device is not designed to be removed (*see, e.g.*, Walsh, FIG. 24; col. 11, lines 8-9 and 29-34), Walsh also fails to teach or suggest “production of an electrocoagulated anastomosis,” as recited in claim 1.

As reflected in paragraph [0005] of the present specification, the claimed invention relates to a device forming an electrocoagulated anastomosis which, after the procedure is complete, can be removed from the patient’s body. Further, as described in ¶¶ [0007] and [0010] of the present specification, the claimed invention provides secure and permanent connection of hollow organs using electrocoagulation, without the disadvantages of prior art devices—such as Lim or Walsh, which a) cannot be removed without resection, and b) fail to teach or suggest anything of electrocoagulation.

Accordingly the Lim and Walsh combination fails to teach or suggest “a removable electrocoagulative anastomosis device for the production of an electrocoagulated anastomosis... [wherein] each of ... inner and outer sleeves is separable or operable such that they can be removed from the first and second hollow organs without severing them after formation of the electrocoagulated anastomosis is complete... [and] each of the inner and outer sleeves comprises electrically conductive materials,” as recited in claim 1. Moreover, the cited combination fails to teach or suggest ““said inner sleeve comprises an inner sleeve electrically conductive portion ... said outer sleeve comprises an outer sleeve electrically conductive portion ... [and] each of said inner and outer sleeves is constructed so as to be openable or separable in a fashion that permits removal of said sleeves from said first and second hollow organs without severing said first or second hollow organ after completion of said anastomoses,” as recited in claim 19. As such, claims 1 and 19 are believed to be allowable. Claims 2-9, 11, 14, 15 and 18 depend from claim 1 and claims 21-22 from claim 19, and are allowable along with claims 1 and 19, respectively, for at least

the foregoing reasons. Accordingly, Applicant respectfully requests that the rejection should be withdrawn and the claims allowed.

Claims 5 and 6 stand under 35 U.S.C. § 103(a) as being unpatentable over Lim and Walsh in further view of U.S. Patent No. 3,435,823 to Edwards.

Claims 5 and 6 depend from claim 1 and are allowable over the Lim and Walsh combination for at least the reasons set forth above. Edwards, which is cited as teaching pivotable components with catch elements, fails to cure the above noted deficiencies. As such, claims 5 and 6 are allowable over the cited combination. Accordingly, the rejection should be withdrawn and the claims allowed.

Claims 12, 13, 16, 17 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lim and Walsh in further view of U.S. Patent No. 5,649,937 to Bito, et al. (Bito). The rejection is respectfully traversed.

Claims 12, 13, 16 and 17 depend from claim 1. Claim 22 depends from claim 19; accordingly, the claims are allowable over the Lim and Walsh combination for at least the reasons set forth above. Bito, cited as allegedly teaching a temperature sensor, fails to cure the above noted deficiencies. As such, claims 12, 13, 16, 17 and 22 are allowable over the cited combination. Accordingly, the rejection should be withdrawn and the claims allowed.

Claims 10, 24 and 26-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lim and Walsh in further view of U.S. Patent No. 5,861,168 to Cooke, et al. (Cooke).

Claim 10 depends from claim 1 and claims 24 and 26-28 depend from claim 19, respectively, and are allowable over the Lim and Walsh combination for at least the reasons set forth above. Claims 29 and 30 recite that “each of said inner and outer sleeves is openable or separable in a fashion that permits removal of said sleeves from said first and second hollow organs without severing said first or second hollow organ after completion of said electrocoagulated anastomoses,” and are believed to be allowable over the Lim and Walsh combination for at least the

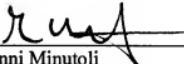
reasons set forth above with respect to claims 1 and 19, as well as on their own merit. Cooke, which is cited as teaching plastic and metal device construction, fails to cure the above noted deficiencies. As such, claims 10, 24 and 26-30 are allowable over the cited combination. Accordingly, the rejection should be withdrawn and the claims allowed.

In view of the above, Applicant believes the pending application is in condition for allowance.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1073, under Order No. E7900.2001/P2001.

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